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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,260	09/17/2003	Patsy Ann Krautkramer	19167	3401
23556	7590	03/15/2006	EXAMINER	
KIMBERLY-CLARK WORLDWIDE, INC. 401 NORTH LAKE STREET NEENAH, WI 54956			HAND, MELANIE JO	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/664,260	KRAUTKRAMER ET AL.
	Examiner Melanie J. Hand	Art Unit 3761

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 September 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>various(4)</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Information Disclosure Statements***

The information disclosure statements (IDS) submitted on February 2, 2004, October 28, 2004, January 13, 2005 and September 22, 2005, were filed after the mailing date of the Application on September 17, 2003. The submissions are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnes et al (U.S. Patent No. 6,608,236).

With respect to **Claims 1,5,6,11,15**: Burnes teaches an absorbent article comprising a liquid-permeable bodyside liner, a liquid-impermeable nonwoven backsheet, a distribution/retention layer 7, between the liner and baffle, an intake layer 6 between the liner and distribution layer 7, and a pad-shaping, or secondary absorbent layer 9 between the distribution layer and the backsheet. (Col. 13, lines 41, 65-67, Col. 23, lines 15-18, 22-25, Col. 24, lines 1-5, 23-26). Intake layer 6 is rectangular and has an area that is less than that of hourglass-shaped shaping layer 9. (Fig. 8) (Col. 14, lines 41-65) Shaping layer 9 thus has two wider sections at the ends and a narrower section connecting the two wider sections, with two respective transition sections between the narrow sections and the wider sections, the diameter of the semicircular end sections defining first and second longitudinal half-lengths. The side edges of the narrow section of the hourglass connect the lateral side edges of the wider and transition sections on each end with one another. (Fig. 8) The diameter of the semicircles defined the maximum width of the shaping layer, while the lateral width of the rectangular narrow section defines the minimum width of said shaping layer. Since the narrow, transition and wide sections are contiguous with respect to one another, the rectangle defining the narrow section will have longitudinally opposed terminal edges located in the wide sections which are defined by the first and second longitudinal half-lengths. Burnes does not teach that the intake layer is longitudinally offset toward the wider section that is defined by the first longitudinal half-length, i.e. the front of the article, however it would be obvious to one of ordinary skill in the art to shift the intake layer in such a manner so as to align the central region of the intake layer with the flow of menses so that the fluid may be guided properly and effectively, which would require shifting the layer forward. This would result in at least 55% of the intake layer length and area being located forward of a transverse centerline in the region defined by the first longitudinal half-length (Claims 5,6). Burnes also does not teach a longitudinally asymmetric shaping layer,

however decreasing the diameter of one of the semicircular end sections would result in a longitudinally asymmetric layer. Since such a modification is the result of an optimization of the diameter of a semicircular end section that involves only routine skill in the art, Examiner asserts that Claim 1 is unpatentable over the prior art of Burnes.

With respect to **Claim 2**: Burnes teaches an intake layer length ("top layer" as referred to by Burnes) of 152 mm and a shaping layer length ("bottom layer" as referred to by Burnes) of 218 mm. (Col. 14, lines 24-27, 45-65)

With respect to **Claim 3**: The narrow section of the hourglass of layer 9 is separated from the wide section defined by the first longitudinal half length by a transition section, and therefore substantially avoids extending into said wider section. (Fig. 8)

With respect to **Claims 4,16**: Burnes does not teach a longitudinally asymmetric article, and therefore, given the dimensions taught by Burnes for the intake layer, it would not be possible for said intake layer to avoid extending into a narrow section. However Examiner also asserts that the intake layer dimension could be modified simultaneously with a modification of the diameter of a semicircular end section as described in Claim 1. This modification would also be obvious to one of ordinary skill in the art as modifying the length of the intake layer so as to be contained entirely within the larger of the two semicircular end sections in a longitudinally asymmetric shaping layer involves only routine skill in the art and thus claim 4 is unpatentable over the prior art of Burnes. Further optimization of position and dimension of the shaping and intake layers in this manner would result in the intake layer having such dimensions and position so as to be located at least 30 mm from a terminal edge of the narrow section (Claim 16).

With respect to **Claims 7-10**: Burnes teaches that the lateral width of the rectangle defining the narrow section of shaping layer 9 is 60 mm. Burnes also teaches that the diameter of the wider section is 70 mm (Col. 14, lines 45-65), therefore the inboard boundary is 86% of the maximum width of the shaping layer.

With respect to **Claims 12-14,17**: As can best be seen in Fig. 8, the transition section of the hourglass of shaping layer 9 has substantially parallel tapering curvilinear side edges that are outwardly concave. Burnes does not teach linear side edges, however it would be obvious to modify the side edges to taper linearly with a reasonable expectation of success as doing so would not alter the performance or functionality of the article.

With respect to **Claims 18,20,21**: Burnes teaches that the pad shaping layer 9 is an airlaid web comprising 80-90 wt% cellulose fluff pulp fibers and 10-20 wt% binder fibers. (Col. 12, lines 14-17) Burnes also teaches that the intake layer is an airlaid web comprised of 80-95 wt% cellulosic pulp fibers and 5-20 wt% binder fibers. (Col. 12, lines 1-4)

With respect to **Claim 19**: Burnes teaches that the shaping layer has a basis weight of 175 gsm, a density of around 0.08 g/cc, an absorbent capacity between about 2.3-3.8 g/cc, wherein the menses stimulant for the tests of absorbent capacity is comprised of defibrinated swine blood, and an area of about 127 cm<sup>2</sup>. (Col. 12, lines 14-17, Col. 14, lines 45-60, Col. 15, lines 10-19, Col. 24, lines 1-5) Burnes teaches that the intake layer has a density, absorbent capacity and area that are less than that of the shaping layer. (Col. 11, lines 48-50, Col. 14, lines 45-60, Col. 15, lines 10-19) Burnes does not teach an absorbent capacity of at least about 5 grams,

however since applicant stated merely that the capacity of the shaping layer “can be at least 5 grams” (emphasis added) and Burnes teaches a capacity of 2.3-3.8 g/cc, Examiner asserts that modifying the absorbent capacity would involve modifying the weight percentage or distribution of absorbent material in the shaping layer, which would involve only routine skill in the art and thus claim 19 is not patentable over the prior art of Burnes.

With respect to **Claim 22**: Burnes does not teach that the article contains wings, but does teach that they are a known improvement in the art for enhanced leakage protection, (Col. 1, lines 28-31) therefore it would be obvious to one of ordinary skill in the art to modify the article so as to contain asymmetric wings in the narrow section.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand  
Examiner  
Art Unit 3761

MJH

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read "Tatyana Zalukaeva".